

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

SAMUEL MENDEZ,

Plaintiff,

v.

PA. DEPT. OF CORRECTIONS, et al.,

Defendants.

Civil Action No. 05-35 Erie

**MEMORANDUM ORDER**

This civil rights action was received by the Clerk of Court on January 28, 2005, and was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Magistrate Judge's Report and Recommendation [Doc. No. 51], filed on April 28, 2006, recommended that the motion to dismiss filed by the Pennsylvania Department of Corrections [Doc. No. 16] be granted; that the motion to dismiss filed by Dr. Baker and Prison Health Services [Doc. No. 19] be granted; that the motion to dismiss filed by Dr. Fraider [Doc. No. 23] be granted; and that Plaintiff's motion to amend the complaint [Doc. No. 29] be denied as futile. The parties were allowed ten (10) days from the date of service to file objections. Service was made on Plaintiff by certified mail and on Defendants. No objections were filed. After de novo review of the complaint and documents in the case, together with the Report and Recommendations, the following order is entered:

AND NOW, this 17<sup>th</sup> day of May, 2006;

IT IS HEREBY ORDERED that the motion to dismiss filed by the Pennsylvania Department of Corrections [Doc. No. 16] is GRANTED; the motion to dismiss filed by Dr. Baker and Prison Health Services [Doc. No. 19] is GRANTED; the motion to dismiss filed by Dr. Fraider [Doc. No. 23] is GRANTED; and Plaintiff's motion to amend the complaint [Doc. No. 29] is DENIED as futile.

The Report and Recommendation [Doc. No. 51] of Magistrate Judge Baxter, filed

on April 28, 2006, is adopted as the opinion of the Court.

s/ Sean J. McLaughlin  
United States District Judge

cm: All parties of record  
Susan Paradise Baxter, U.S. Magistrate Judge